

REMARKS

After the Office Action mailed October 5, 2007 (hereinafter: "the Office Action"), claims 1-20 stand rejected. Claims 16-20 have been amended. Reconsideration of the above-referenced application in view of the following remarks is respectfully requested.

I. Rejection of Claims 16-20 Under 35 U.S.C. §101

Claims 16-20 stand rejected as directed to non-statutory subject matter under 35 U.S.C. §101. Specifically, the Office Action states that the claims are drawn to an intangible medium and are thus non-functional descriptive material.

Claims 16-20 have been amended to recite a computer readable medium containing executable instructions, and should now constitute functional descriptive material under MPEP 2106.01, which is generally statutory. It is thus submitted that claims 16-20, as amended, recite statutory subject matter, and withdrawal of the rejection of claims 16-20 is respectfully requested.

II. Rejection of Claims 1-20 Under 35 U.S.C. §102(e)

Claims 1-20 have been rejected under 35 U.S.C. §102(e) as anticipated by U.S. Published Patent Application No. 2004/0179539 to Takeda et al. (hereinafter: Takeda). Takeda was filed in the U.S. on July 16, 2003, and claims priority to no other U.S. or international references that would establish an earlier filing date under 35 U.S.C. §102(e). Accordingly, the critical reference date of Takeda, for the purpose of a rejection under 35 U.S.C. §102(e), is July 16, 2003.

The subject application has been amended to claim priority from U.S. provisional patent application Serial No. 60/457,656, filed on March 26, 2003. It is respectfully submitted that this provisional application provides support for at least independent claims 1, 11, and 16. Since the priority date of this application now predates the 35 U.S.C. §102(e) critical reference date of Takeda, it is respectfully submitted that Takeda cannot be applied as prior art against this application. It is thus respectfully requested that the rejection of claims 1-20 be withdrawn.

III. Conclusion

In light of the above amendment and remarks, it is respectfully submitted that the application is in condition for allowance, and the passage of the application to issue is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,


Robert B. Sundheim
Robert B. Sundheim
Reg. No. 20,127

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO, LLP
1300 E. 9th St. Suite 1700
Cleveland, Ohio 44114-1400
Phone: (216) 621-2234
Fax: (216) 621-4072
Customer No.: 26294